

SECTION II

WAIVER OF CONFIDENTIALITY FOR FREE AND REDUCED PRICE MEAL ELIGIBILITY DISCLOSURES

Although not as restrictive as in the past, rules of confidentiality still apply to the use of free and reduced-price eligibility information by student name. States are currently allowed to use free and reduced price eligibility information in summary form for demonstrating economic need or for purposes of program funding. The restrictions apply when individual students are identified through lists, announcements, etc. as eligible for free and/or reduced-price meals. The meal application solicits information to determine eligibility for school meal benefits only and such documents including direct certification listings must be treated in a confidential manner.

To accommodate the need for free and reduced-price meal information on an individual basis, USDA established a waiver of confidentiality option which allows the household to grant permission for the use or disclosure of their child's (or children's) free or reduced price meal eligibility for other program purposes. A sample waiver document is included in this Section. As indicated on the suggested form, exact purpose and/or benefits must be clearly identified. Waivers may be included on the meal application, however, all required statements and disclaimers must be on the application or in the cover letter to the households. Specifically, households must be informed that:

- ◆ Signing the waiver is not a requirement or prerequisite to receiving meal benefits.
- ◆ Participation in the TANF (AFDC) or food stamp programs will not be disclosed.
- ◆ The waiver will only be used for those programs or benefits agreed to by the household.
- ◆ The Privacy Act applies if the household member's social security number is used in any manner. (The household must be informed whether the provision of the social security number is voluntary or mandatory, by what authority the number is solicited, who will use the number and how it will used.)

Agencies other than the school district using eligibility information by student name must assure the district in writing that eligibility status information will be used for the stated purpose only. The district may want to administer the waiver process on an individual benefit or program basis rather than list various uses together on one waiver document.

The waiver of confidentiality only applies when free and/or reduced-price meal eligibility is used or released on an individual name basis. Any summary use of free and reduced-price meal eligibility data is permissible without going through the waiver process. USDA has formally authorized three exceptions to the waiver requirement: (1) names of students with his or her eligibility may be used without a waiver for National Assessment of Education Progress (standardized testing), (2) provided to officials collecting data for Title I allocation and evaluation purposes, and (3) shared with Medicaid and State Children's Health Insurance Program (SCHIP) officials and agencies with appropriate written agreements in place.

SAMPLE

WAIVER OF CONFIDENTIALITY

The information that you provided on the free and reduced price meal application will be used to determine your child's (or children's) eligibility for free and reduced price meals. With your permission, this information may also be used to determine eligibility for the following benefit(s) as well.

*(Please note that the district must identify those programs and agencies that will use the free and/or reduced price eligibility information, for what purpose and/or the benefit to be provided. It may be far easier to administer the waiver process on a programmatic or individual benefit basis rather than list various uses together on one waiver document. Agencies other than the district using the eligibility information by student name must assure the district in writing that eligibility status information will be used for the purpose stated only. If the social security number provided by household is to be used in any manner, a Privacy Act statement must also be added to the waiver request. **This paragraph is for information only and must be deleted from this form to be reproduced and used as a waiver document.**)*

Signing this waiver is not a requirement nor prerequisite to receiving free and/or reduced price meal benefits.

In no event will participation in the food stamp or TANF (AFDC) programs be indicated in the release of free meal eligibility to any entity.

By signing my name I understand and give permission to the school district to use the information on the meal application form or from the direct certification eligibility document for the purpose(s) listed above.

Signature of Parent or Legal Guardian

Date

SAMPLE AGREEMENT

DISCLOSURE OF FREE AND REDUCED PRICE INFORMATION AGREEMENT

I. PURPOSE AND SCOPE

_____ and _____ acknowledge
(Insert name of determining agency) (Insert name of receiving agency)
and agree that children's free and reduced price meal and free milk eligibility information obtained under provisions of the National School Lunch Act (42 USC 1751 et. seq.) or Child Nutrition Act of 1966 (42 USC 1771 et. seq.) and the regulations implementing those Acts is confidential information. This Agreement is intended to ensure that any information disclosed by the _____ to the _____ about children
(Insert name of determining agency) (Insert name of receiving agency)
eligible for free and reduced price meals of free milk will be used only for purposes specified in this Agreement and that the _____ and _____
(Insert name of determining agency) (Insert name of receiving agency)
recognize that there are penalties for unauthorized disclosures of this eligibility information.

II. AUTHORITY

Section 9(b)(2)(C)(iii) of the National School Lunch Act (42 USC 1758(b)(2)(C)(iii)) authorizes the limited disclosure of children's free and reduced price meal or free milk eligibility information to specific programs or individuals, without prior parent/guardian consent. Except that, the parent/guardian must be provided the opportunity to decline to share eligibility information prior to the disclosure for identifying children eligible for benefits under or enrolling children in the State Medicaid Program and the State children's health insurance program. Additionally, the statute specifies that for any disclosures not authorized by the statute, the consent of children's parents/guardians must be claimed to the disclosure.

The *requesting* agency certifies that it is currently authorized to administer the following program(s) and that the information requested will be used only for the program(s) indicated.

Check

all apply Program

Information authorized

	<i>Medicaid</i> or the <i>State children's health insurance program (SCHIP)</i> administered by a State or local agency authorized under titles XIX or XXI of the Social Security Act. Specify Program:	All eligibility information, unless parents elect not to have information disclosed.
	<i>State health program</i> other than Medicaid/SCHIP, administered by a State agency or local education agency. Specify Program:	Eligibility status only, consent not required.
	<i>Federal health program</i> other than Medicaid/SCHIP Specify Program:	NO eligibility information, unless parental consent is obtained.
	<i>Local health program.</i> Specify Program:	NO eligibility information, unless parental consent is obtained.
	<i>Child Nutrition Program</i> under the National School Lunch Act or Child Nutrition Act. Specify Program:	All eligibility information, consent not required.
	<i>Federal/State or local means tested nutrition program</i> with eligibility standards comparable to the National School Lunch Program. Specify Program:	Eligibility status only, consent not required.
	<i>Federal education program.</i> Specify Program:	Eligibility status only, consent not required.
	<i>State education program</i> administered by a State agency or local education agency. Specify Program:	Eligibility status only, consent not required.
	<i>Local education program.</i> Specify Program:	No eligibility information, unless parental consent is obtained.

Note: Section 9(b)(2)(C)(iv) specifies that certain programs may receive children's eligibility status **only**, without parental consent. Parental consent must be obtained to disclose any additional eligibility information. Section 9(b)(2)(C)(iv) specifies that for State Medicaid or SCHIP, parents must be notified and given opportunity to elect not to have information disclosed. Social security numbers may only be disclosed if households are given notice of the disclosure and the uses to be made of their social security number as required by Sec. 7 of the Privacy Act.

III. RESPONSIBILITIES

_____ will:
(Insert Name of Determining Agency)

When required, secure parents/guardians consent prior to any disclosure not authorized by the National School Lunch Act or any regulations under that Act, unless prior consent is secured by the receiving agency and made available to the determining agency;

For State Medicaid and SCHIP notify parents/guardians of potential disclosures and provide opportunity for parents/guardians to elect not to have information disclosed;

Disclose eligibility information only to persons directly connected to the administration or enforcement of programs authorized access under the National School Lunch Act or regulations under the Act or to programs or services for which parents/guardians gave consent.

_____ will:
(Insert Name of Receiving Agency)

Ensure that only persons who are directly connected with the administration or enforcement of the _____ and whose job responsibilities require
(Insert Name of the Program)
use of the eligibility information will have access to children's eligibility information:

Specify by name(s) or title(s): _____

Use children's free and reduced price eligibility information for the following specific purpose(s):

(Describe): _____

Inform all persons that have access to children's free and reduced price meal eligibility information that the information is confidential, that children's eligibility information must only be used for purposes specified above, and the penalties for authorized disclosures.

Protect the confidentiality of children's free and reduced price meal or free milk eligibility information as follows:

Specifically describe how the information will be protected from unauthorized uses and further disclosures: _____

Description of Procedures to Transfer Meal Eligibility Information (May be completed by either the determining agency or receiving agency.)

Describe the procedures for transferring students' meal eligibility information from the determining agency to the requesting agency/program so as to limit the number of individuals who have access to the information:

Describe: _____

IV. EFFECTIVE DATES

This agreement shall be effective from _____ to _____.

V. PENALTIES

Any person who publishes, divulges, discloses, or makes known in any manner, or to an extent not authorized by Federal law (Section 9(b)(2)(C) of the National School Lunch Act; 42 USC 1758(b)(2)(C)) or a regulation, any information about a child's eligibility for free and reduced price meals or free milk shall be fined not more than \$1,000 or imprisonment of not more than 1 year or both.

V. SIGNATURES

The parties acknowledge that children's free and reduced price meal and free milk eligibility information may be used only for the specific purposes stated above, that unauthorized use of free and reduced price meal and free milk information or further disclosure to other persons or programs is prohibited and a violation of Federal law which may result in civil and criminal penalties.

Requesting Agency/Project Administrator

Printed Name:	
Title:	Phone:
Signature:	
Date	

Determining Agency Administrator

Printed Name:	
Title:	Phone:
Signature:	
Date	

*Any attachments will become part of this agreement.